

## Chapter 24: Taxation

### **Article 1: Ad Valorem Taxes.**

#### *Section 1: Annually Set*

The ad valorem tax rate for each year shall be established annually by the City Council. Until such time as the Mayor and City Council sets the 2009 ad valorem tax rate, the most recent Dekalb County ordinance in existence setting the ad valorem tax rate shall control pursuant to Section 6.03(e) of the City Charter.

#### *Section 2: Maximum Rate*

Except as otherwise allowed by law, for all years, the millage rate imposed for ad valorem taxes on real property shall not exceed 3.04, unless a higher millage rate is recommended by resolution of the City Council and subsequently approved by a majority of the eligible voters in the City by referendum.

#### *Section 3: Fines for Delinquent Returns*

(a) Any person failing to properly return his real property, for tax purposes, on or before the 1st day of March of each year shall be assessed a penalty of 10 percent (10%) of the amount of taxes due the City. Said penalty shall be in addition to the amount of ad valorem taxes due the City and also in addition any costs and interest and interest permitted by law.

#### *Section 4: Due Date*

(a) The ad valorem taxes due the City for the first installment shall become due and payable on July 1 and shall be delinquent after August 15, taxes for the 2nd installment are due October 1 and shall be delinquent after November 15 of each tax year.

(b) Any installment of ad valorem taxes due to the City that is not paid on or before the delinquency date shall be in default, and shall bear interest and penalties, now or hereafter, as provided by law for taxes which are delinquent or in default, and executions shall be issued therefore, at such time the City has met the legal requirements of all state and local laws.

(c) In addition, interest shall accrue on such unpaid taxes at the rate of one (1) percent per month beginning on January 2 following the November when such taxes were due and continuing thereafter until paid in full. All interest shall be computed at the rate of one (1) percent per month or for any fraction thereof.

#### *Section 5: Collection of Delinquent Taxes*

(a) The duty to collect by levy and sale, or otherwise, for delinquent taxes is hereby imposed upon the City Tax Collector or his designee as issuing officer, and the Sheriff of DeKalb County

as execution officer. All levies of execution for delinquent taxes shall be in the name of the City. This duty may be contracted, by the City Council, to a third party.

(b) It shall be the duty of the City Tax Collector or his designee, to comply with all provisions of Georgia law for issuing, sale and transfer of tax executions and laws governing judicial sales and to:

(i) Keep a file of all newspapers in which an official advertisement appears;

(ii) Keep an execution docket in which shall be entered a full description of all executions;

(iii) Maintain a book of all sales;

(iv) Maintain an index to the sales and executions.

(c) The City Tax Collector shall sign all levies, notices, advertisements, and the like in his name for the City.

(d) Execution issued in the name of the City for delinquent ad valorem taxes shall be directed and delivered to the Sheriff of DeKalb County, who shall enter the execution upon the docket to be kept in his office and he shall proceed to enforce the collection of the execution in the manner prescribed by law.

(e) The City Tax Collector will issue all fieri facias (fi. fas.) for delinquent taxes and the Sheriff of DeKalb County shall execute such fi. fas. under the same procedures provided by law governing execution of such process from the superior court, or by the use of any other available legal process and remedies.

#### *Section 6: Assessment of Property for Ad Valorem Taxes*

(a) The DeKalb County Board of Tax Assessors is hereby designated to have the responsibility for assessment and valuation of property within the City limits. The City Council shall adopt the assessments and valuations made by the Board of Tax Assessors of DeKalb County for all property located within the City limits, as may be established from year to year by the DeKalb County Board of Tax Assessors.

(b) The City Council authorizes the Tax Commissioner of DeKalb County to make such adjustments in the collection of individual items of tax, and to make such refunds as may be proper and necessary, by adding to or deducting from the distribution due the City at the next period of accounting, along with stated explanation of the correction.

### **Article 2: Hotel and Motel Tax.**

#### *Section 1: Definitions:*

(a) *Guest room* means a room, lodging, or accommodation occupied or intended for occupancy by one or more occupants but does not mean a meeting room which is intended, designed, or used for meetings.

(b) *Hotel* means a structure or any portion of a structure, including but not limited to, rooming or lodging houses, inns, motels, motor hotels and courts, hotels, cabins, public or private clubs, and tourist camps, which contain guest rooms which are regularly furnished for value to the public.

(c) *Occupancy* means the use or possession or the right to the use or possession of any guest room in a hotel or the right to the use or possession of the furnishing of services or accommodations which accompany the use or possession of a guest room in a hotel.

(d) *Occupant* means any person who for a consideration uses or possesses or has the right to use or possess a guest room in a hotel under any lease, concession, contract, permit, right of access, license, or other agreement.

(e) *Operator* means any person operating a hotel in the City, including the owner, proprietor, lessee, sublessee, licensee, or other entity operating the premises.

(f) *Person* means any individual, firm, partnership, association, corporation, organization, company, estate, trust, receiver, trustee, syndicate, or other group, combination, or entity.

(g) *Rent* means the consideration received for the occupancy of a guest room in a hotel whether received in money, property, services, or credits.

(h) *Tax* means the tax imposed by this Article.

## *Section 2: Tax Imposed; Exceptions*

(a) There is imposed, assessed, and levied, and there shall be paid an excise tax of five percent (5%) of the rent for every occupancy of a guest room in a hotel in the City. The tax shall be paid on any occupancy after December 1, 2008 within the city limits.

(b) The tax imposed by this Article shall not apply to:

- (i) Charges made for any rooms, lodgings, or accommodations provided to any persons who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty;
- (ii) The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge;

- (iii) Any rooms, lodgings, or accommodations furnished for a period of one or more days for use by Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a Georgia state or local government official or employee traveling on official business for purposes of the exemption provided by this paragraph. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; or
- (iv) Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy.

### *Section 3: Liability for Payment*

Every person occupying a guest room in a hotel in the City is liable for the tax imposed by this Article. The liability for the tax is not extinguished until the tax has been paid to the City; however, the occupant is relieved from further liability upon the payment of the rent to the operator. Additionally, any operator who neglects, fails, or refuses to collect the tax from the occupant shall be liable for and shall pay the tax and any interest and penalties assessed.

### *Section 4: Operator registration; certificate of authority*

(a) Every person engaged in or about to engage in the operating as an operator of a hotel in the City shall register on a form provided by the City. Persons engaged in the business must so register not later than December 31, 2008, but the failure to register shall not relieve any person from the obligation of payment or collection of the tax.

(b) The registration shall set forth the name under which the person transacts business or intends to transact business, the location of his place or places or business, and other information which would facilitate the collection of the tax as the City may require. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or a partner; in the case of ownership by a corporation, by an executive officer or some person specifically authorized by the corporation to sign the registration.

(c) The City shall, after the registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable and shall be prominently displayed therein so as to be seen and to come readily to the notice of all occupants and persons seeking occupancy.

(d) The certificates shall be nonassignable and nontransferable and shall be returned immediately to the City Manager or his or her designee, upon the cessation of business at the location named or upon the sale or transfer of the business at that location.

#### *Section 5: Filing Return; Payment; Collector Reimbursement*

(a) The tax shall become due and payable from the occupant at the time of occupancy of a guest room in a hotel in the City. All such taxes collected by the operator shall be due and payable to the City on or before the 20th day of every month next succeeding the month in which the occupancy occurs.

(b) On or before the 20th day of every month, a return for the preceding month shall be filed with the City by every operator liable for the collection and payment of the tax imposed by this Article. The return shall be in such form as the City shall prescribe, and shall show the gross rent, the taxable rent, the amount of tax collected or otherwise due for such month, and such other information as the City may require.

(c) The person required to file the return shall deliver the return and at the same time deliver the remittance of the net amount of the tax due to the City of Dunwoody.

(d) If the amount of the tax due is not delinquent at the time of payment to the City, the operator may deduct three percent (3%) of the amount of the tax due as reimbursement for collecting the tax.

#### *Section 6: Disposition of Revenue*

All revenue collected by the City pursuant to this Article shall be expended in a manner consistent with Georgia law codified at O.C.G.A. § 48-13-50 *et seq.*

#### *Section 7: Delinquent Penalty*

Any operator who fails to pay the tax to the City on or before the due date shall pay a penalty of 10 percent of the tax not paid plus interest on the unpaid tax at the rate of 1 percent per month.

#### *Section 8: Enforcement and Administration*

(a) The City Tax Collector shall administer and enforce the provisions of this Article.

(b) The City Tax Collector, in conjunction with the City Finance Director, shall have the power and authority to make reasonable rules and regulations not inconsistent with this Article or other laws or ordinances for the administration and enforcement of the provisions of the Article and the collection of the tax.

(c) Every operator renting guest rooms in a hotel in the City shall keep such records, receipts, invoices, and other pertinent papers in such form as the City Manager or his or her designee, may require.

(d) The City Tax Collector or any person authorized in writing by the City Manager may examine the books, papers, records, financial reports, and facilities of any operator renting guest rooms and any operator liable for the tax in order to verify the accuracy of and return made or to ascertain and determine the amount of tax which should be paid.

(e) In administering this Article, the City Tax Collector may require the filing by operators of reports relating to the rental of guest rooms.

#### *Section 9: Penalties*

Any operator or person who violates any provision of this Article shall be guilty of a misdemeanor and upon conviction shall be punished as provided in this Code.

### **Article 3: Rental Motor Vehicle Excise Tax**

The City Council does exercise its authority as granted by Georgia law (O.C.G.A. § 48-13-90 et seq.) to levy an excise tax on rental motor vehicles to be used for the purposes provided by Georgia law.

#### *Section 1: Definitions:*

(a) *Motor vehicle* means a motor vehicle designed to carry ten or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver regardless of whether such vehicle is licensed in the State of Georgia.

(b) *Rental motor vehicle concern* means a person or legal entity which owns or leased five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

(c) *Month or monthly period* shall mean the calendar months of any year.

(d) *Rental charge* means the total value received by a rental motor vehicle concern for the rental or lease of 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales taxes.

(e) *Tax, Excise tax or taxes* shall mean the tax imposed by this Article

#### *Section 2: Authority and Records*

(a) The City Tax Collector shall administer and enforce this article for the levy and collection of the tax.

(b) Every rental motor vehicle concern subject to this Article shall keep such records, receipts, invoices and other pertinent papers in such form as the City Tax Collector may require.

### *Section 3: Excise Tax Levied*

(a) There is hereby assessed and levied an excise tax upon each rental charge collected by any rental motor vehicle concern when such charge constitutes a taxable event for the purposes of the sales and use tax as provided for under O.C.G.A. § 48-8-1 et seq. on any motor vehicle rental charge made in the City on or after December 1, 2008. The tax levied pursuant to this article shall be in the amount of three percent (3%) of the rental charge as defined herein. The tax levied pursuant to this article shall be imposed only at the time when and the place where a customer pay sales tax with respect to the rental charge. The customer who pays a rental charge that is subject to the tax levy as provided in this Article shall be liable for the tax. The tax shall be paid by the customer to the rental motor vehicle concern. The tax shall be a debt of the customer to the rental motor vehicle concern until it is paid and shall be recoverable at law in the same manner as authorized for the recovery for other debts.

(b) The rental motor vehicle concern collecting the tax shall remit the tax to the City and the tax thus remitted shall be a credit against the tax imposed by this article on the rental motor vehicle concern. Every rental motor vehicle concern subject to the tax levied by this article shall be liable for the tax at the rate of three percent (3%) upon the rental charges actually collected or the amount of taxes collected from the customers, whichever is greater.

(c) The Council declares that the proceeds received from the excise tax levied by this Article are to be used in public safety facilities, including pedestrian sidewalks, installation of traffic lights, street lighting for public safety purposes, and for the maintenance of such systems of traffic lights and streets lights within the territorial city limits, or public improvements for sports and recreational facilities within the territorial city limits.

### *Section 4: Exceptions*

No tax shall be imposed pursuant to this article on the rental charge associated with the rental or lease of a rental motor vehicle if either:

- (i) The customer picks up the rental motor vehicle outside the State of Georgia and returns it within the State of Georgia; or
- (ii) The customer picks up the rental motor vehicle in the State of Georgia and returns it outside the State of Georgia.

### *Section 5: Amount of tax allowed to be retained for expenses*

Each rental motor vehicle concern collecting the tax imposed by this article shall be allowed to retain three percent of the tax due and collected and may retain that amount in the form of a deduction for expenses incurred in submitting, reporting and paying the amount of taxes due, if the amounts due are not delinquent at the time of payment.

#### *Section 6: Statement required showing gross rental charges and taxes*

(a) On or before the 20th day of each month following the month of December, 2008, the motor vehicle concern liable for the tax provided for herein shall transmit to the City of Dunwoody a statement showing the gross rental charges and gross taxes collected through authority of this article for each preceding calendar month. Along with said statement, the motor vehicle concern shall submit the net taxes due for each particular month.

(b) Failure to remit taxes by the due date shall subject the rental motor vehicle concern to a penalty of five percent (5%) of the tax then due and, in addition to such penalty, interest thereon the unpaid principal amount due, computed at the rate of one percent (1%) per month or fraction thereof from the due date of the taxes.

#### *Section 7: Records*

In order to aid in the administration and enforcement of the provisions of this article and collect all the tax imposed, all rental motor vehicle concerns are hereby required to keep a record rental charges for rental motor vehicles and taxes collected which are related thereto. Said records shall be open for inspection and copying by the City Manager, or his designee, during business hours.

#### *Section 8: Deficiency determinations*

(a) If the City Tax Collector is not satisfied with the return or returns of the excise tax provided for herein, or the amount of the tax required to be paid to the City by any rental vehicle concern, he may compute and determine the amount required to be paid (upon use of any information within his possession or that may come into his possession). Deficiency determinations may be made of the amount due for one or more monthly periods.

(b) The amount of the determination made by the City Tax Collector shall bear interest at the rate of one percent per month or fraction thereof from the due date of the taxes found due by him.

(c) The City Tax Collector or his or her designee shall give to the rental vehicle concern a written notice of any such determination. The notice may be made personally or by mail and if by mail the service shall be addressed to the operator of the rental motor vehicle concern at the address as the same appears in the records of the City Tax Collector as provided to him by each rental motor vehicle concern. Service shall be complete when delivered by certified mail with a receipt signed by an addressee or agent of addressee.

(d) Except in cases of failure to make a return, every notice of deficiency determination shall be mailed within three (3) years after the 20th day of the calendar month following the period in which the amount proposed to be determined or within three (3) years after the return was filed, whichever period shall expire last.

#### *Section 9: Audit authority*



Duly authorized representatives of the City upon exhibition of identification and during regular business hours may examine and copy the books, papers, records, financial reports equipment and other facilities if necessary of any rental motor vehicle concern in order to verify the accuracy of any return made pursuant to this article, or if no return is made by the rental motor vehicle concern, to ascertain or determine the amount of tax required to be paid.

#### *Section 10: Withholding tax on sale of business*

(a) If any rental motor vehicle concern liable for any amount under this article transfers or sells its business or quits the business, its successors or assigns shall withhold sufficient amounts from the purchase price to cover the amount required to be paid pursuant to this article until the former owner or operator of the rental motor vehicle concern produces a receipt from the City Tax Collector or his designee showing that the indebtedness has been paid or a certificate stating that no amount is due.

(b) If the purchaser of a business or rental motor vehicle concern fails to withhold from the purchase price as required herein such purchaser shall be personally liable for the payment of the amount of the outstanding tax required to be withheld by him to the extent of such purchase price.

#### *Section 11: Penalty for violation*

(a) In addition to the interest charges and delinquent penalties specified in this Article any person violating any provision of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in this Code. Such persons shall be guilty of a separate offense for each and every day during which any violation of any provision of this article is committed, continued, or permitted by that person and shall be punished accordingly.

(b) The tax levied by this article shall be effective on the first day of December, 2008 and shall continue until its permissible existence shall expire as provided by law.

### **Article 4: Financial Institutions**

#### *Section 1: Definitions*

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Bank* means any financial institution chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a corporate structure authorizing the issuance of capital stock.

(b) *Depository Financial Institution* means a bank or a savings and loan association.

(c) *Gross receipts* shall mean gross receipts as defined in O.C.G.A. § 48-6-93.

(d) *Savings and Loan Association* means any financial institution, other than a credit union, chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a mutual corporate form.

#### *Section 2: Tax levied; Rate*

In accordance with O.C.G.A. § 48-6-93, there is hereby levied for the year 2009 and for each year thereafter an annual business license tax upon all depository financial institutions located within the City of Dunwoody at a rate of 0.25 percent of the gross receipts of said depository financial institutions.

#### *Section 3: Minimum Business License Tax*

The minimum annual amount of business license tax due from any depository financial institution pursuant to O.C.G.A. § 48-6-93(a) shall be \$1,000.00.

#### *Section 4: Filing of Return*

Pursuant to O.C.G.A. § 48-6-93(a), each depository financial institution subject to the tax levied by this Article shall file a return of the gross receipts with the City of Dunwoody Tax Collector's office on or before March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and the form prescribed by the commissioner of the department of revenue, based on the allocation method set forth in O.C.G.A. § 48-6-93(d). The return shall provide the information necessary to determine the portion of the taxpayer's Georgia gross receipts to be allocated to each taxing jurisdiction in which such institution has an office. The City Tax Collector's office shall assess and collect the tax levied pursuant to this Article based upon the information provided in said return.

#### *Section 5: Due Date of Taxes*

Taxes levied pursuant to this Article shall be paid to the Tax Collector at the time of filing the return.

#### *Section 6: Administrative Provisions*

The City of Dunwoody's Tax Collector is hereby authorized and directed to forward a copy of this Article to each depository financial institution located in the City of Dunwoody and to the home office of each such depository financial institution that does business in the City if located outside the county.

#### *Section 7: Relation of Tax to Other Business Licenses*

The tax imposed by this Article shall be in lieu of any other business license upon depository financial institutions.

## **Article 5: License Fees on Insurers**

### *Section 1: Intent*

The Mayor and City Council hereby expresses its intent to impose license fees on insurers conducting business in the City of Dunwoody, to impose a gross premium tax on insurers operating within the State of Georgia, to provide an effective date, and for other purposes related to this Article.

### *Section 2: Definitions*

For the purposes of this Article, the following definitions apply.

(a) “Gross Direct Premiums” shall mean gross direct premiums as used in O.C.G.A. § 33-8-4, which provides:

(i) All foreign, alien, and domestic insurance companies doing business in this state shall pay a tax of 2 ¼ percent upon the gross direct premiums received by them on and after July 1, 1955. The tax shall be levied upon persons, property, or risks in Georgia, from January 1 to December 31, both inclusive, of each year without regard to business ceded to or assumed from other companies. The tax shall be imposed upon gross premiums received from direct writings without any deductions allowed for premium abatements of any kind or character or for reinsurance or for cash surrender values paid, or for losses or expenses of any kind; provided, however, deductions shall be allowed for premiums returned on change of rate or canceled policies; provided, further, that deductions may be permitted for return premiums or assessments, including all policy dividends, refunds, or other similar returns paid or credited to policyholders and not reapplied as premium for additional or extended life insurance. The term ‘gross direct premiums’ shall not include annuity considerations.

(ii) For purposes of this Chapter, annuity considerations received by nonprofit corporations licensed to do business in this state issuing annuities to fund retirement benefits for teachers and staff personnel of private secondary schools and colleges and universities shall not be considered gross direct premium.”

(b) “Insurer” means a company which is authorized to transact business in any classes of insurance designated in O.C.G.A. § 33-3-5.

### *Section 3: Insurers License Fees*

There is hereby levied for the year 2009 and for each year thereafter an annual license fee upon each insurer doing business within the City of Dunwoody in the amount of \$100.00. For each separate business location in excess of one not covered by Section 4 of this Article, which is

operating on behalf of such insurers within the City of Dunwoody, there is hereby levied a license fee in the amount of \$100.00.

*Section 4: License Fees for Insurers Insuring Certain Risks at Additional Business Locations*

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee in the amount \$35.00 per location for the year 2009 and each year thereafter.

*Section 5: Gross Premiums Tax Imposed on Life Insurers*

(a) There is hereby levied for the year 2009 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to 1 percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1.

(b) The premium tax levied by this section is in addition to the license fees imposed by Section 3 of this Article.

*Section 6: Gross Premiums Tax, All Other Insurers*

(a) There is hereby levied for the year 2009 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. § 33-3-5, doing business within the State of Georgia in an amount equal to 2.5 percent of the gross direct premium received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2.

(b) The premium tax levied by this section is in addition to the license fees imposed by Section 3 of this Article.

*Section 7: Due Date for License Fees*

License Fees imposed by Sections 3 and 4 of this Article shall be due and payable on the first day of January and on the first day of each subsequent year.

*Section 8: Administrative Proceedings*

The City Clerk is hereby directed to forward a duly certified copy of this Article to the Insurance Commissioner of the State of Georgia within 45 days of its enactment.

*Section 9: Severability*

In the event that any portion of this Article shall be declared or adjudged invalid or unconstitutional, it is the intention of the Mayor and City Council that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Article which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause, or phrase were not originally part of the ordinance.

**Article 6: Provision for Transition Period**

*Section 1: Positions not yet established*

During the period of transition and start up of the City of Dunwoody, any duties required by this Chapter to be fulfilled by an employee or officer of the City who has not been appointed or such position or agency not yet established shall be fulfilled by the City Manager or the City Manager's designee.